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Attorneys for Plaintiff and Real Party in Interest

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

INTERNATIONAL CHURCH

FOURSQUARE GOSPEL,

Plaintiff,

v.

CITY OF SAN LEANDRO, MICHAEL)

J. GREGORY (in his official capacity),)

SURLENE G. GRANT(in her official)

capacity), DIANA M. SOUZA(in her)

official capacity), JOYSE R.)

STAROSCIACK (in her official)

capacity), BILL STEPHES (in his)

) Case No.: CO7-03605-PJH-JCS

)

) **DECLARATION OF PAUL GANTT
IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

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Date: September 5, 2007

Time: 9:00 a.m.

Courtroom: 3

Hon.: Phyllis J. Hamilton

DECLARATION PAUL GANTT

1 official capacity), JIM PROLA (in his)
2 official capacity), JOHN JERMANIS(in)
3 his official and individual capacities),)
4 DEBBIE POLLART (in her official and)
5 individual capacities), DOES 1-50,)
6 Defendants.)
7 FAITH FELLOWSHIP FOURSQUARE)
8 CHURCH,)
9 Real Party in Interest.)

10 I, Paul Gantt, do hereby declare as follows:

11 1. That if called upon, I could and would testify truthfully, as to my own
12 personal knowledge, as follows:

13 2. I spent approximately 15 years in the Fire Service, working in 4
14 jurisdictions and holding various ranks from Firefighter/Paramedic, Fire Training
15 Officer, Battalion Chief, Fire Marshal, and Deputy Fire Chief.

16 3. Since 1992 I have been the owner and President of my firm, one that
17 provides occupational and environmental health and safety services including
18 training and consultation programs. Additionally, we work with numerous
19 businesses around the country to help them comply with the various regulatory
20 requirements including those involving hazardous materials and wastes.

21 4. I am also qualified as an expert witness in a number of areas and in this
22 capacity I provide testimony and services in a number of states throughout the
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DECLARATION PAUL GANTT

1 country on topics related to safety, hazardous materials, and regulatory compliance.

2 I am a Certified Safety Professional and a Cal-EPA certified Registered
3 Environmental Assessor.

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5 5. I read the Statement included in the Administrative Record, Exhibit A
6 §N (4), in substantially those words at the City of San Leandro Planning
7 Commission meeting on April 12, 2007.

8
9 6. In light of the emphasis on hazardous materials as the basis for
10 Planning Commission denial of the Faith Fellowship request for rezone to the
11 Assembly Use (AU) Overlay District, I was asked to research the issues associated
12 with locating an assembly occupancy into an area where facilities that had filed a
13 Hazardous Materials Business Plan (HMBP) were also present. As part of my
14 review I specifically evaluated the facilities located near the proposed site for the
15 Faith Fellowship location. I could find no rational reason to deny their application
16 based on the perceived hazards.

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19 7. I further examined the 196 properties that had been rezoned to the AU
20 Overlay District, to determine if those properties have similar exposures to
21 businesses with Hazardous Material Business Plans. I had a Staff Member actually
22 survey the areas involved in the primary cluster of AU Overlay zoned properties.
23 As a result of that review, I concluded and informed Peter MacDonald, Attorney for
24 Faith Fellowship Church, that there were few, if any, properties zone AU Overlay
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1 that are not within ¼ mile of business with a Hazardous Materials Business Plan,
2 prior to the City Council hearing on their appeal May 7, 2007.

3 8. Following the City Council denial on May 7, 2007, Faith Fellowship obtained
4 from official records of the City of San Leandro a list of all business addresses
5 within San Leandro that have filed HMBP's.

6
7 9. Using that HMBP address list and the list of all AU Overlay addresses,
8 I determined that a graphic depiction of the locations of HMBP addresses in relation
9 to AU Overlay parcel would visually demonstrate my conclusion that there are no
10 AU Overlay parcels more than ¼ mile from a business with an HMBP. Exhibit B is
11 a graphic prepared by Land Plan Associates of Pleasanton (Dave Chadbourne,
12 Principle).

13
14 10. Exhibit B is the resulting document labeled Assembly Use Overlay
15 Parcels. I have generally reviewed the HMBP list (but not each address) and the AU
16 Overlay parcels, and conclude that Exhibit B is an accurate depiction of the
17 proximity of AU Overlay parcels to businesses with HMBP's.

18
19 11. Based upon the foregoing, I conclude that there is apparently no parcel
20 within the AU Overlay District that is not within ¼ mile of a business with a
21 Hazardous Materials Business Plan.

22
23 I declare, under penalty of perjury under the laws of the State of California
24 and the United States of America, that the foregoing is true and correct and is of my
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DECLARATION PAUL GANTT

own personal knowledge, and indicate such below by my signature executed on this
11th day of July, 2007, in the County of Alameda, City of San Leandro.

/S/ Paul Gantt
Paul Gantt, Declarant

Attorney Attestation re Signature

I hereby attest that I have on file all holograph signatures for any signatures
indicated by a "conformed" signature (/S/) within this efiled document.

/S/ Kevin Snider
Kevin T. Snider
Mathew B. McReynolds
Peter D. MacDonald
Attorneys for Plaintiff and
Real Party in Interest